NOTES OF CASES.

Automobiles—Liability of Manufacturer for Injury Caused by Defect.—In Johnson *v.* Cadillac Motor Car Co., 261 Fed. 878, the U. S. Circuit Court of Appeals for the Second Circuit, held that the manufacturer of an automobile, who fails to use reasonable care in inspecting and testing the wheels, is liable to a purchaser injured by the breaking of a defective wheel, though such purchaser bought from a dealer.

The court said in part: "Since this court decided this case, when it was here before, the New York Court of Appeals has decided MacPherson *v.* Buick Motor Co., 217 N. Y. 382, 111 N. E. 1050, L. R. A. 1916F, 696, Ann. Cas. 1916C, 440 (1916). That court affirmed the court below in holding, in a case similar in its facts to the instant case, that the manufacturer of an automobile is not at liberty to put his product on the market without subjecting its component parts to ordinary and simple tests, and is not absolved from the duty of inspection because it buys the wheels from a reputable manufacturer. The court held the manufacturer's lability was not confined to the immediate purchaser, but extended to third persons not in contractual relations with it. In the course of its opinion the court, Judge Cardozo writing, said:

"Beyond all question, the nature of an automobile gives warning of probable danger if its construction is defective. This automobile was designed to go 50 miles an hour. Unless its wheels were sound and strong, injury was almost certain. It was as much a thing of danger as a defective engine for a railroad. The defendant knew the danger. It knew, also, that the car would be used by persons other than the buyer. This was apparent from its size; there were seats for three persons. It was apparent, also, from the fact that the buyer was a dealer in cars, who bought to resell. The maker of this car supplied it for the use of purchasers from the dealer just as plaintly as the contractor in Devlin *v.* Smith supplied the scaffold for use by the servants of the owner. The dealer was indeed the one person of whom it might be said with some approach to certainty that by him the car would not be used. Yet the defendant would have us say that he was the one person whom it was under a legal duty to protect. The law does not lead us to so inconsequent a conclusion. Precedents drawn from the days of travel by stage-coach do not fit the condition of travel today. The principle that the danger must be imminent does not change, but the things subject to the principle do change. They are whatever the needs of life in a developing civilization require them to be."

False Imprisonment—Theft of Property Left Unprotected When Owner Wrongfully Arrested.—Where an officer unlawfully arrested

a person and, upon his attention being called to the fact that plaintiff had an automobile on the street in a dangerous place, refused to take care of the automobile, or to permit plaintiff to take care of it, and parts of the machine were stolen by third persons, and such officer was liable therefor in damages.

The court said in part: "The controlling question here is whether the complaint is sufficient to show that the sheriff knew or had reasonable cause to believe that the automobile was in an unsafe place and would likely be molested at the place where it was left. The complaint upon its face shows in the allegation hereinbefore quoted that the deputy sheriff, over the remonstrance of the appellant, refused to permit the appellant to remove the truck to a safe place; that the deputy sheriff well knew, or in the exercise of ordinary care should have known, that the truck was left in a dangerous place, where its parts could be easily stolen and would be stolen; and that the sheriff and the deputy sheriff refused to permit the appellant to have the automobile removed to a safe place, and they themselves refused to take any steps to preserve or look after the automobile truck. But for these allegations, we have no doubt the rule relied upon by the respondents would apply, and the sheriff could not be held to anticipate that a third party would intervene and molest the automobile. But when it is alleged, as it is here, that the deputy was informed of the fact that the automobile was in a dangerous place, where its parts could easily be stolen, and where the sheriff or his deputy refused to permit the automobile to be placed in a safe place, where they refused to take care of it themselves, we are of the opinion that under these circumstances they are liable for the injury which occurred to the automobile truck in such place. In the case of Horan *v.* Town of Watertown, a Massachusetts case, 217 Mass. 185, 104 N. E. 464, it was said:

"'Where as here the original negligence of the defendant is followed by the independent act of third persons which directly results in injurious consequences to the plaintiff, the defendant's earlier negligence may be found to be the direct and proximate cause of those injurious consequences, if according to human experience and in the natural and ordinary course of events the defendant ought to have seen that the intervening act was likely to happen.

"We think it is unnecessary to cite other cases to this point. According to the allegation of the complaint the deputy sheriff's attention was called to the fact that this was a dangerous place to leave the automobile. The deputy sheriff refused to take care of the automobile and refused to permit the appellant to take care of it. Under these circumstances we are satisfied that the arrest and the refusal of the sheriff to take care of the automobile truck was the proximate cause of the loss."